

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LAKELAND BANK

Plaintiff,

v.

SUN-RE CHEESE CORP.

Defendant.

CASE NO. 4:22-cv-01076-WIA

DEFAULT JUDGMENT

Defendant Sun-Re Cheese Corp., having failed to appear, plead or otherwise defend in this action, and the default having been entered on September 13, 2022, and counsel for plaintiff having requested judgment against the defaulted defendant and having filed a proper motion and affidavit in accordance with Federal Rule of Civil Procedure 55 (a) and (b);

Judgment in replevin is entered in favor of Plaintiff Lakeland Bank against Defendant Sun-Re Cheese Corp., and Defendant Sun-Re Cheese Corp. is ordered to turn over the following equipment to Plaintiff Lakeland Bank, wherever it may be found:

(1) 3 Monblanc Engineering Refurbished CMT Chilling Vats – 1 VRM 6000, 1-VRM 9000, 1- VRM 5000; (2) 1 Heritage Equipment Company Walker Model VSHT 30,000 gallon refrigerate silo type storage tank (the “Equipment”).

BY THE COURT:

J.S.C.

UNITED STATES DISTRICT COURT
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MOTION FOR ENTRY OF DEFAULT JUDGMENT

Plaintiff Lakeland Bank requests that entry of judgment by default be entered against Defendant Sun-Re Cheese Corp. pursuant to Federal Rule of Civil Procedure 55(b). In support of this request Plaintiff Lakeland Bank relies upon the record in this case and the affidavit submitted herein.

BERGER LAW GROUP, PC

By: Phillip D. Berger
PHILLIP D. BERGER, ESQUIRE
PA ID #58942
919 Conestoga Road, Building 3, Suite 114
Rosemont, PA 19010
Attorneys for Lakeland Bank

Dated: 9/23/2022

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AFFIDAVIT IN SUPPORT OF MOTION FOR ENTRY OF DEFAULT JUDGMENT

1. I am Phillip D. Berger, Esquire, President of the law firm of Berger Law Group, P.C. Attorneys for Plaintiff in the above entitled action.
2. The Complaint in this matter was filed by Lakeland Bank on July 1, 2022 in the Northumberland County Court of Common Pleas at Docket No. CV-22-990.
3. The complaint in this action was served upon the Defendant on July 7, 2022.
4. This matter was removed to this Court by Defendant Sun-Re Cheese Corp. on July 8, 2022, and the Defendant attached a copy of the filed Complaint to its Notice of Removal, evidencing that the Defendant received the Complaint.
5. The time as provided in Rule 12(a), Federal Rules of Civil Procedure within which the defendant may answer or otherwise move as to the said complaint expired, and no defendant named herein has answered or otherwise moved.
6. The Default of Defendant was entered on September 13, 2022.
7. As required by the Servicemembers Civil Relief Act of 2003, the Defendant is a corporation, and I have confirmed that the Defendant is not currently in active military service as it is not a person.
8. As the defendant is being a corporation with its principal place of business in Northumberland County, Pennsylvania, Defendant is neither an infant nor an incompetent person requiring special service in accordance with Rule 4(g), Federal Rules of Civil Procedure.
9. The claim of Plaintiff Lakeland Bank is for replevin of the following equipment:

(1) 3 Monblanc Engineering Refurbished CMT Chilling Vats – 1 VRM 6000, 1-VRM 9000, 1- VRM 5000; (2) 1 Heritage Equipment Company Walker Model VSHT 30,000 gallon refrigerate silo type storage tank (the “Equipment”).
10. By way of background, on or about July 1, 2016, Lakeland Bank provided a loan

in the principal sum of \$217,500.00 (the “Loan”) to Defendant Sun-Re Cheese Corp. to purchase certain equipment in accordance with the terms and conditions of that certain Conditional Sales Contract dated July 1, 2016 (the “Contract”).

11. To induce Lakeland Bank to make the Loan, Defendant Sun-Re Cheese Corp. provided a security interest in the Equipment to Lakeland Bank, which security interest was perfected by Lakeland Bank’s filing of that certain UCC-1 Financing Statement dated July 8, 2016 at No. 2016070800854 (the “UCC-1”).

12. Sun-Re Cheese Corp. defaulted on its obligations to Lakeland Bank by virtue of various events, including, without limitation, its failure to make payment when due of the amounts payable on the Contract.

13. Following Sun-Re Cheese Corp.’s default, Plaintiff Lakeland Bank made demand on Defendant Sun-Re Cheese Corp. to turn over all of the Equipment; however, Defendant Sun-Re Cheese Corp. has failed and refused to turn over the Equipment.

14. The Uniform Commercial Code, as adopted by Pennsylvania, grants a secured party on default the right to immediate possession of its secured property. 13 Pa. C.S.A. § 9503.

15. Upon Defendant Sun-Re Cheese Corp.’s default on the Loan, the Uniform Commercial Code, as adopted by Pennsylvania provides Lakeland Bank with the right to immediate possession of the collateral, being the enumerated Equipment.

16. Defendant Sun-Re Cheese Corp. has no legal right to prevent or prohibit Lakeland Bank from taking possession of the Equipment.

17. Upon information and belief, the Equipment is in the possession and the control of Defendant Sun-Re Cheese Corp.

18. Plaintiff Lakeland Bank has the exclusive right of possession to said Equipment.

19. Copies of this Affidavit and the Motion for Entry of Default Judgment have this date been served upon the defendant by regular mail, postage prepaid.

20. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

BERGER LAW GROUP, PC

By:



PHILLIP D. BERGER, ESQUIRE

PA ID #58942

919 Conestoga Road, Building 3, Suite 114

Rosemont, PA 19010

Attorneys for Lakeland Bank

Dated: 9/23/2022

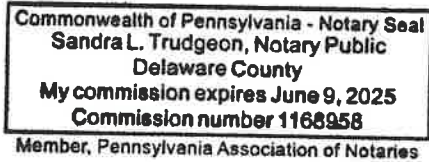
Sworn and subscribed

before me this 23rd

day of September, 2022.



NOTARY PUBLIC



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CERTIFICATE OF SERVICE

I, Phillip D. Berger, Esquire, hereby certify that a true and correct copy of foregoing Motion for Entry of Default Judgment pleadings, and a true and correct copy of the filed default entered on September 13, 2022 were served this date upon the following parties by first class mail, postage prepaid:

Timothy A. Bowers, Esquire
Best Law Offices, LLC
20 North Front Street
PO Box 88
Sunbury, PA 17801

BERGER LAW GROUP, PC

By:

Phillip D. Berger

PHILLIP D. BERGER, ESQUIRE

PA ID #58942

919 Conestoga Road, Building 3, Suite 114

Rosemont, PA 19010

Attorneys for Lakeland Bank

Dated: 9/23/2022